

1 Honorable Marsha Pechman
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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

8 VERONICA GAMBLE,

9 Plaintiff,

10 v.

11 STATE FARM MUTUAL AUTOMOBILE
12 INSURANCE COMPANY, a Foreign
13 Corporation,

14 Defendant.

No. 3:19-cv-05956-MJP

15 AMENDED JOINT PRETRIAL
16 ORDER

17 The parties preliminarily conferred regarding the Pretrial Order and trial exhibits. After
18 the submission of this Pretrial Order, the parties anticipate conferring further in an effort to
19 streamline the trial and may submit a proposed Amended Pretrial Order either before or after the
20 Pretrial Conference.

21 **I. JURISDICTION**

22 This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §1332
23 because the parties are citizens of different states and the amount in controversy exceeds
24 \$75,000.

25 This Court has personal jurisdiction over State Farm.

Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claim occurred in this judicial district.

II. CLAIMS AND DEFENSES

A. Plaintiff's Claims

Plaintiff is a policyholder on an automobile insurance policy issued by defendant. She brought this action for both contractual underinsured motorist (UIM) benefits and extracontractual damages caused by State Farm's handling of the UIM insurance claim.

Plaintiff will seek a judgment that defendant breached the insurance contract; failed to act in good faith; negligently handled her insurance claim; violated the Consumer Protection Act (CPA), RCW 19.86.090; and violated the Insurance Fair Conduct Act (IFCA), RCW 48.30.015. She will seek recovery of compensatory damages under each of these theories; punitive damages under the CPA and IFCA; and attorney fees and costs. She will also seek injunctive relief from the Court at the conclusion of trial to reform State Farm's claims handling practices under the CPA.

Plaintiff denies the defenses asserted by State Farm. Plaintiff further contends that State Farm is not entitled to any offset.

B. Defendant's Defenses

State Farm claims it is entitled to an offset because it offered to waive its right to reimbursement for PIP medical expenses benefits in the amount of \$10,000 which were paid to some of plaintiff's health care providers in 2017, and because plaintiff recovered \$25,000 of liability insurance benefits from the party who was at fault for the accident.

State Farm disputes the nature and extent of the injuries sustained by plaintiff in the July 8, 2017 motor vehicle accident. State Farm specifically denies that plaintiff's medical care

1 relating to an expanded Rahtke's Cleft Cyst, or a pituitary apoplexy including the neurosurgical
 2 procedure she underwent on August 10, 2017, and any follow-up or after-care, was related to or
 3 proximately caused by the motor vehicle collision of July 8, 2017.

4 State Farm denies that it improperly handled plaintiff's UIM bodily injury claim. State
 5 Farm also denies that it breached the insurance contract, violated its duty of good faith or
 6 violated the CPA or IFCA statutes. State Farm claims that it conducted a reasonable and
 7 thorough investigation of plaintiff's UIM claim.

8 State Farm will request that the jury award plaintiff reasonable damages for her strained
 9 / sprained / bruised wrist which is the only injury that the plaintiff sustained in the July 8, 2017
 10 motor vehicle collision. State Farm believes that it is unlikely those damages will exceed the
 11 \$10,000.00 in PIP benefits it offered to waive and the \$25,000.00 in liability insurance coverage
 12 that plaintiff has already received. State Farm will request that the jury return a defense verdict
 13 on all extra-contractual claims, including the breach of contract, insurance bad faith, CPA and
 14 IFCA claims. State Farm will similarly request that the court deny plaintiff's claim for
 15 unspecified injunctive relief.

17 III. ADMITTED FACTS

19 The parties submit the following joint stipulated and admitted facts:

- 20 1. Plaintiff Veronica Gamble was injured in an automobile collision on July
 8, 2017.
- 21 2. The tortfeasor who caused the accident, Claire Grant, struck Gamble's
 vehicle from behind while Gamble was stopped at a red light.
- 22 3. Gamble bore no fault in the collision.
- 23 4. The collision caused property damage to the bumper of Gamble's vehicle.

5. State Farm takes the position that the only injuries and damages proximately caused by the July 8, 2017 collision were to Gamble's right wrist.
 6. Although State Farm disputes whether the July 8, 2017 collision caused Gamble's pituitary cyst to expand, a pituitary apoplexy or hemorrhage, or any other pituitary-related injuries, the parties agree Gamble incurred \$258,181.95 in medical expenses reasonably necessary for the diagnosis and treatment of her pituitary cyst expansion, pituitary-related injuries, and aftercare.
 7. At the time of the collision, Grant was insured by GEICO. Grant had \$25,000.00 in liability coverage for the damages caused by the collision.
 8. On behalf of Grant, GEICO agreed to pay its \$25,000.00 policy limits to Gamble and did so.
 9. At the time of the collision, Gamble was covered by her own automobile insurance policy with State Farm.
 10. The State Farm insurance policy covering Gamble for the July 8, 2017 motor vehicle collision provided underinsured motorist (UIM) benefits with a limit of \$50,000.00 per person.
 11. Gamble's policy also provided coverage for personal injury protection (PIP) medical expense benefits with a \$10,000.00 limit.
 12. The UIM and PIP coverages are separate first-party insurance coverages under the automobile policy.
 13. Gamble is a first-party claimant under the policy.

14. Gamble made claims under her PIP and UIM coverages for her injuries caused by the collision.
 15. State Farm paid \$10,000.00 in PIP benefits to some of Gamble's health care providers.
 16. Gamble made a claim with State Farm for her UIM benefits policy limits in the amount of \$50,000.00 on or about February 26, 2018.
 17. Throughout 2017 and 2018, State Farm collected Gamble's medical records and bills.
 18. On March 18, 2019, Gamble's attorney sent a 20-day Insurance Fair Conduct Act violation notice to State Farm and the Washington State Office of the Insurance Commissioner.
 19. On August 2, 2019, Gamble's attorney sent an amended 20-day Insurance Fair Conduct Act violation notice to State Farm and the Washington State Office of the Insurance Commissioner.
 20. State Farm has not paid any UIM benefits to Gamble for her injuries arising from the July 8, 2017 motor vehicle collision.

IV. ISSUES OF LAW

A. Plaintiff's Statement of Issues

Plaintiff may present the following in motions for judgment as a matter of law during trial:

1. Did State Farm breach the terms of the insurance policy?
 2. Did State Farm violate the duty of good faith as a matter of law?
 3. Did State Farm negligently handle Gamble's claim as a matter of law.

4. Did State Farm violate claims-handling regulations found at WAC 284-30-330 as a matter of law?
 5. Did State Farm violate the CPA as a matter of law?
 6. Did State Farm violate IFCA as a matter of law?

At the conclusion of trial, plaintiff will also ask the Court to enter an injunction to require State Farm to provide training and impose guidelines consistent with Washington's claims regulations (chapter 284-30 WAC) to its claims representatives. Plaintiff will also seek injunctive relief that State Farm reform its medical review department to comply with Washington claims handling regulations.

B. Defendant's Statement of Issues

Defendant State Farm may present Fed. R. Civ. P. 50 motions for judgment as a matter of law seeking to dismiss plaintiff's claims for:

- 1) Insurance bad faith;
 - 2) Breach of the insurance contract;
 - 3) Negligent claim handling;
 - 4) Violations of the Consumer Protection Act;
 - 5) Violations of the Insurance Fair Conduct Act; and,
 - 6) Claims for declaratory and injunctive relief.

V. EXPERT WITNESSES

A. Plaintiff's Expert Witnesses

Rob Dietz
3405 172nd St. NE #5
Arlington, WA 98233
(360) 652-2760

1 Rob Dietz is an insurance claims expert who will testify about the claims handling and
2 of the claim practice of State Farm Insurance Company regarding plaintiffs' underinsured
3 motorist claim.

4 See also medical treaters identified below.

5 Defendant State Farm reserves the right to move in limine to exclude late disclosed
6 expert witnesses and treating physicians who provided no reports beyond their treatment records
7 to the extent such physicians attempt to testify beyond the matters set forth in their treatment
8 records and chart notes.

9 **B. Defendants Expert Witnesses**

10 Dennis Smith
11 4800 Fremont Ave. N., #202
12 Seattle, WA 98103
13 (206) 999 – 3506

14 Dennis Smith is an insurance claims handling expert who will testify that State Farm
15 appropriately handled plaintiff's UIM claim in this case and met the standards imposed by
16 Washington common law and the Washington Administrative Code (WAC) claim handling
17 regulations at 284-30-330 in accordance with his Fed. R. Civ. P. 26(a)(2) expert disclosure
18 report submitted August 31, 2020.

19 Timothy Moebes, B.A.Sc., P.E.
20 Trantech
21 2910 Leonard Drive
22 Everett, WA 98201
23 (425) 861 - 4666

24 Tim Moebes is registered professional engineer and forensic accident reconstruction
25 expert who will testify in accordance with his Fed. R. Civ. P. 26(a)(2) expert disclosure report
submitted August 31, 2020, that the at-fault driver's vehicle collided with the rear bumper of

1 plaintiff's vehicle at a speed of less than 11 miles per hour and accelerated plaintiff's vehicle
2 from a stop to a speed of no more approximately 6.1 miles per hour.
3

4 Steven Klein, M.D.
5 4723 N.E. 36th Street
6 Seattle, WA 98105
7 (206) 965-8157

8 Steven Klein, M.D. is a board-certified neurosurgeon who will testify as to the cause of
9 the symptomology plaintiff experienced in mid to late July 2017. He will testify in accordance
10 with his September 2, 2018 report previously provided to plaintiff's counsel in 2018, his
11 December 28, 2018 addendum report previously provided to plaintiff's counsel in January 2019
12 and his August 10, 2020 declaration provided to plaintiff's counsel in August 2020. Both these
13 reports and the declaration were submitted with State Farm's Fed. R. Civ. P. 26(a)(2) expert
14 disclosure on August 31, 2020.

15 Gary K. Stimac, Ph.D., M.D.
16 Imaging Network of Seattle
17 26062 S.E. 36th Street
18 Sammamish, WA 98075
19 (425) 644-3300

20 Gary Stimac, M.D., Ph.D. is a board-certified radiologist specializing in neuroradiology
21 who will testify in accordance with his August 27, 2020 report which was submitted with State
22 Farm's Fed. R. Civ. P. 26(a)(2) expert disclosure on August 31, 2020.

23 Plaintiff reserves the right to object to and move in limine and/or at trial to exclude
24 defendant's expert witness(es).

25 VI. LAY WITNESSES

A. Plaintiff's Lay Witnesses

1 Veronica Gamble
2 c/o Plaintiff's Counsel

3 Ms. Gamble is the plaintiff. She will testify about her accident, her injuries, and her
4 experiences relating to State Farm's handling of her UIM Claim as well as the harm inflicted by
5 defendant's unreasonable denials of insurance payments and benefits.

6 Kenneth and Sandi Gamble
7 c/o plaintiff's Counsel

8 Mr. and Mrs. Gamble are Veronica's parents. They will testify regarding plaintiff's
9 injuries and insurance claim. They also have knowledge of how plaintiff's injuries impacted her
10 in her day-to-day life.

11 Thomas Konkle Jr.
12 13203 145th St. E.
13 Puyallup, WA 98374
14 (253)753-4189

15 Mr. Konkle is Veronica's husband. He will testify regarding plaintiff's injuries and
16 insurance claim. He also has knowledge of how plaintiff's injuries impacted her in her day to
17 day life.

18 Plaintiff's Medical providers listed below, may testify about plaintiff's injuries,
19 damages, how the crash has affected plaintiff's life, and may provide expert opinions within
20 their professional competencies:

21 Anoop Patel, M.D.
22 University of Washington Medical Center
23 1959 NE Pacific St.
24 Seattle, WA 98195

25 Dr. Patel treated plaintiff for the injuries she sustained in the collision. He will testify
26 regarding the physical injuries which were the basis for her insurance claim, his treatment of
27 Gamble as documented in the medical records, the authenticity of medical records, the
28

1 reasonableness of expenses, and his declaration on file with this Court. He will also testify that
2 nobody at State Farm contacted him to discuss Gamble's injuries. He may provide expert
3 opinions within his professional competencies. Dr. Patel will appear via previously video
4 recorded perpetuation testimony.

5 Hoan Tran M.D.
6 St. Joseph Medical Center/CHI Franciscan
7 1608 S. J. St.
8 Tacoma, Washington 98405

9 Dr. Tran treated plaintiff for the injuries she sustained in the collision. He will testify
10 regarding the physical injuries which were the basis for her insurance claim, his treatment of
11 Gamble as documented in the medical records, the authenticity of medical records, the
12 reasonableness of expenses, and his declaration on file with this Court. He will also testify that
13 nobody at State Farm contacted him to discuss Gamble's injuries. He may provide expert
14 opinions within his professional competencies.

15 Brent Eugene Wisse, M.D.
16 Harborview Medical Center
17 325 9th Ave.
18 Seattle, WA 98104

19 Dr. Wisse treated plaintiff for the injuries she sustained in the collision. He will testify
20 regarding the physical injuries which were the basis for her insurance claim, his treatment of
21 Ms. Gamble as documented in the medical records, the authenticity of medical records, the
22 reasonableness of expenses, and his declaration on file with this Court. He will also testify that
23 nobody at State Farm contacted him to discuss Gamble's injuries. He may provide expert
24 opinions within his professional competencies. Dr. Wisse will appear via previously video
25 recorded perpetuation testimony.

Blanca Zuniga, MD MPH

1 Community Health Care
2 1148 Broadway, Suite 100
3 Tacoma, WA 98402
4 (Administrative office)

5 Dr. Zuniga is plaintiff's primary care physician. Dr. Zuniga may testify about plaintiff's
6 pre and post collision medical history and the authenticity of medical records. She may also
7 testify that nobody at State Farm contacted her to discuss Gamble's injuries. She may provide
8 expert opinions within her professional competencies.

9 Defendant State Farm reserves the right to move in limine to exclude late disclosed
10 expert witnesses, including without limitation Bent Eugene Wisse, and any other treating
11 physicians who provided no reports beyond their treatment records to the extent such physicians
12 attempt to testify beyond the matters set forth in their treatment records and chart notes.

13 Cody Potthast,
14 c/o Scott Wakefield

15 Mr. Potthast will testify regarding plaintiff's claim for insurance benefits, defendant's
16 investigation of plaintiff's insurance claim, and defendant's unreasonable denials of insurance
17 payments and benefits. He may also testify regarding the topics for which he provided Fed. R.
18 Civ. P 30(b)(6) testimony.

19 Richard Buchmann
20 c/o Scott Wakefield

21 Mr. Buchmann will testify regarding plaintiff's claim for insurance benefits, defendant's
22 investigation of plaintiff's insurance claim, and defendant's unreasonable denials of insurance
23 payments and benefits. He may also testify regarding the topics for which he provided Fed. R.
24 Civ. P 30(b)(6) testimony.

25 Jennifer Carson
26 c/o Scott Wakefield

1 Ms. Carson will testify regarding plaintiff's claim for insurance benefits, defendant's
2 investigation of plaintiff's insurance claim, and defendant's unreasonable denials of insurance
3 payments and benefits.
4

5 Steven Klein, M.D.
c/o Scott Wakefield

6 Dr. Klein may be called to testify about his medical examination of plaintiff after the
7 underlying crash and defendant's investigation of plaintiff's insurance claim. He was hired by
8 defendant State Farm.
9

10 **A. Defendant's Lay Witnesses**

11 Cody Potthast
Claim Specialist, State Farm Mutual Automobile Ins. Co.
12 c/o Scott Wakefield

13
14 Mr. Potthast is a Claim Specialist at State Farm. Mr. Potthast will testify regarding
15 defendant's investigation and evaluation of plaintiff's UIM bodily injury claim.
16

17 Richard Buchman
Team Manager, State Farm Mutual Automobile Ins. Co.
18 c/o Scott Wakefield

19 Mr. Buchmann is a Team Manager at State Farm. He was the immediate supervisor of
20 Cody Potthast while Mr. Potthast was handling the Veronica Gamble UIM bodily injury claim.
21 Mr. Buchmann will testify regarding State Farm's investigation and evaluation of plaintiff's
22 UIM bodily injury claim and his supervision of Mr. Potthast while Mr. Potthast was handling
23 that claim.
24
25

1 Jennifer Carson
 2 Consultant Medical Resources, State Farm Mutual Automobile Ins. Co.
 c/o Scott Wakefield

3 Ms. Carson is a medical resources consultant at State Farm. She will testify concerning
 4 questions she received from State Farm Claim Specialist Cody Potthast in March 2018 about the
 5 medical conditions plaintiff's counsel claimed plaintiff sustained in the July 8, 2017 motor
 6 vehicle collision. She will testify about her responses to those questions, including her
 7 suggestion that the claims handlers retain a qualified physician in an appropriate specialty to
 8 address their questions concerning the causation of the injuries claimed by plaintiff as a result of
 9 motor vehicle collision.

VII. EXHIBITS

B. Plaintiff's Trial Exhibits

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
1		Gamble's Insurance Policy and Declaration Pages, GAMBLE001853–1895, 1897, 1901–1917	X		
2		Photos of Gamble's wrists, Gamble 000001–3	X		
3		Claim file notes, GAMBLE000002–91		X	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
4		State Farm's auto injury evaluations for Gamble claim, GAMBLE000178-82 (REDACTED)	X		
5		Auto Injury Evaluation History, GAMBLE000184-87	X		
6		Gamble's medical records and billings included in claim file, GAMBLE000493-1165, 1183-1186, 1362-84, 1515-1543, 1566, 1570-1596, 1603-18, 1623-1719, 1729-1785, 1806, 1809-1851 (REDACTED and blank pages removed)		X	
6A	8/7/2017	Excerpt Gamble's medical record, Harborview Medical Cener, GAMBLE001090-94	X		
6B	8/8/2017	Excerpt Gamble's medical record, Harborview Medical Cener, GAMBLE001079-84	X		
6C	7/31/2017	Excerpt Gamble's medical record, CHI Franciscan, GAMBLE000589	X		

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
6D	8/9/2017	Excerpt Gamble's medical record, Harborview Medical Cener, GAMBLE001138-39	X		
6E	8/10/217	Excerpt Gamble's medical record, Harborview Medical Cener, GAMBLE001061-62	X		
6F	7/31/2017	Excerpt Gamble's Medical Records, CT radiology images from CHI Franciscan Health, GAMBLE000570-631	X		
7	8/7/2017	Excerpt Gamble's Medical Records from Dr. Tran, GAMBLE00000023-30 (REDACTED)	X		
8		Gamble's Medical Records and Billings from Harborview Medical Center rec'd by stipulation from State Farm, 39-43, 54-59, 212-216, 143-54 (REDACTED)	X		
9	2/24/2020	Gamble's Medical Record from Dr. Zuniga, Gamble_001113-16 (REDACTED)		X (relevance)	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
10		State Farm Demand supports list, GAMBLE000183	X		
11		State Farm Auto Claims Manual, GAMV00000001–93, 340–352		X (relevance)	
12		Selections from State Farm Auto Injury Guidelines, GAMVI00002082–86, 735–37, 1146–48, 2166, 1910, 1913, 1792, 1911, 997–98, 1203–04PROD		X (relevance)	
13		Training log, Cody Potthast, GAMVI00000300-16	X		
14		Training log, Jennifer Carson, GAMVE0003391–3404	X		
15		State Farm Inventive Plans, GAMVI00002423–24, 2427–30		X	
16		State Farm Total Rewards, GAMVE00002878–79		X	
17		Medical Literature relied on by Dr. Tran, Gamble 1031–1047		X (hearsay)	
18	201	State Farm Code of Conduct		X	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
		GAMVE00002848-2877		(relevance)	
19	2018	State Farm Commitment to Policyholders	X		
20	7/31/2017	Claim Correspondence, GAMBLE000391-93	X		
21	9/22/2017	Claim Correspondence, GAMBLE001386-87	X		
22	2/26/2018	UIM Claim Letter to State Farm, GAMBLE001166, 1168	X		
23	2/26/2018	Letter from State Farm re claim assignment, GAMBLE000350	X		
24	3/1/2018	Letter from State Farm re CD, GAMBLE001395	X		
25	3/2/2018	Letter to State Farm re supplement to UIM claim, GAMBLE001173-79 (REDACTED)	X		
26	3/7/2018	Letter from State Farm re GEICO limits, GAMBLE000347	X		
27	3/15/2018	Letter to State Farm attaching photos, GAMBLE001921-23	X		
28	3/27/2018	Letter from State Farm re Gamble	X		

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
		compensated, GAMBLE000337			
29	3/27/2018	Letter to State Farm re no payment of benefits, GAMBLE000486, 488	X		
30	4/2/2018	Letter from State Farm to attorney, GAMBLE000335 (REDACTED)		X (relevance)	
31	4/2/2018	Letter from State Farm re Policy, GAMBLE000336	X		
32	4/6/2018	Letter from State Farm re IME, GAMBLE000332	X		
33	4/17/2018	Letter to State Farm re claim position, GAMBLE000471, 473	X		
34	4/28/2018	Letter from State Farm re IME, GAMBLE000329	X		
35	7/31/2018	Letter to Dr. Klein from State Farm Attorney, LOCKNER0001-5	X		
36	9/17/2018	Leter re Dr. Klein report, GAMBLE0001408 -21	X		
37	9/26/2018	Letter re PIP Exhaustion, GAMBLE000315	X		
38	10/3/2018	Lette to State Farm re Dr. Tran, GAMBLE001353	X		

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
39	10/8/2018	Letter from State Farm re PIP, GAMBLE000304-05		X (relevance)	
40	12/11/2018	Letter to State Farm attaching Dr. Tran's declaration, GAMBLE001347-51	X		
41	1/16/2019	Letter from State Farm re Dr. Klein supplement, GAMBLE000292, GAMBLE001428-32	X		
42	1/22/2019	Letter to State Farm regarding timing of response, GAMBLE001345	X		
43	2/26/2019	Letter to State Farm regarding Dr. Klein supplement, GAMBLE001340-41	X		
44	2/27/2019	Letter to State Farm regarding no payment of benefits, GAMBLE001337	X		
45	3/18/2019	Letter to State Farm regarding IFCA complaint, GAMBLE001324, GAMBLE000453	X		
46	4/2/2019	Email to State Farm regarding IFCA letter, GAMBLE001485-86	X		

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
47	4/5/2019	Letter to State Farm regarding IFCA violations, GAMBLE001438–84 (REDACTED)		X	
48	5/1/2019	Letter to State Farm regarding IFCA response, GAMBLE001389		X	
49	5/8/2019	Letter from State Farm attorney regarding IFCA, GAMBLE000448–51		X	
50	8/2/2019	IFCA Notice, GAMBLE001189–92		X	
51	8/13/2019	Letter from State Farm attorney to Insurance Commissioner and R. Pauley, GAMBLE000440–41		X (relevance)	
52	9/20/2021	Invoice from R. Dietz for expert fees, Gamble–1150		X (relevance)	
53	9/24/2020 and 7/13/2020	Invoices from UW Physicians, Gamble 1161–62		X (relevance)	
54	5/6/2020	Invoice from Dr. Tran, Gamble 1163		X	
55	2019–21	Gamble's prescription report from Costco Pharmacy, Gamble 1151–60		X (foundation)	
56–65		RESERVED			X

1 Plaintiff reserves the right to move to admit any exhibit or portion of an exhibit listed by
 2 State Farm and to offer additional exhibits at trial to the extent necessary to rebut evidence
 3 offered by defendant or as justice may require. Plaintiff also reserves the right to rely on
 4 demonstrative exhibits not listed in the above table for use at trial.

5

6 **C. Defendant's Trial Exhibits**

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
66	05/02/17	Medical Record Office Visit to Community Health Care (Constance Campbell, M.D.) Bates # 28-30		X (duplicate of Plaintiff exhibit)	
67	05/20/17	Medical Record visit to CHI Franciscan St. Clare ER (Rachel Scott, M.D.) Bates # 682-713		X (relevance, cumulative)	
68	05/22/17	Medical Record Office Visit to Community Health Care (Blanca Zuniga, M.D.) Bates # 31-35		X (duplicate of Plaintiff exhibit)	
69	06/19/17	Medical Record Office Visit to Community Health Care (Blanca Zuniga, M.D.) Bates # 36-38		X (duplicate of Plaintiff exhibit)	
70	06/23/17	Community Health Care / Psychotherapy /		X	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
		Julia Keller, MA LMHC Bates # 8-12		(relevance, cumulative)	
71	07/08/17	Post-collision photo of rear of BMW plaintiff was driving Bates # GAMBLE001923		X (duplicate of Plaintiff exhibit)	
72	07/08/17	Post-collision photo of Kia Rio being driven by the at-fault driver Bates # GAMBLE001922		X (duplicate of Plaintiff exhibit)	
73	07/08/17	Medical Record visit to CHI Franciscan St. Clare ER (Charles Moore, M.D.) Bates # 635-644		X (duplicate of Plaintiff exhibit)	
74	07/11/17	Community Health Care / Psychotherapy / Marjorie Page, MS LMFT Bates # 13-15		X (relevance, cumulative)	
75	07/12/17	Geico Property Damage Estimate to BMW plaintiff was driving at the time of the collision Bates # GAMBLE001960 - 1965			X (relevance, hearsay, cumulative)
76	07/26/17	Medical Record visit to Community Health Care (Blanca Zuniga,		X (duplicate of Plaintiff exhibit)	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
		M.D.) Bates # 39-43			
77	07/26/17	Medical Record TRA Medical Imaging radiology report / Howard Sun, MD Bates # 7	X		
78	07/26/17	Community Health Care / Psychotherapy / Marjorie Page, MS LMFT Bates # 16-18		X (relevance, cumulative)	
79	07/26/17	Correspondence from Community Health Care / Yessenia Flores Martinez, NCMA Bates # PID Gamble 00421	X		
80	07/31/17	Medical Record CHI Franciscan Health / St. Clare Hospital ER visit / Thomas Williams, DO, Bates # 572-582	X		
81	07/31/17	Head CT radiology report CHI Franciscan Health / Lawrence Soo-Young Park, MD, Bates # 595-597		X (duplicate of Plaintiff exhibit)	
82	07/31/17	CHI Franciscan Health Head MRI radiology report / Jeremy Cardinal, MD, Bates # 600-603	X		
83	07/31/17	Community Health Care / Triage Note Bates # PID Gamble 000394		X (duplicate of Plaintiff exhibit)	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
84	08/01/17	Office Visit Community Health Care / Blanca Zuniga, MD Bates # 44-47		X (duplicate of Plaintiff exhibit)	
85	08/01/17	Community HC / Psychotherapy / Marjorie Page, MS LMFT Bates # 19-21		X (relevance, cumulative)	
86	08/03/17	CHI Franciscan Health / Thomas Williams, DO / Addendum Note Bates # 583	X		
87	08/03/17	Medical Record Franciscan Medical Group / Franciscan Endocrinology Initial Consult Note / Andy Cheng, MD Bates # 16-21	X		
88	08/07/17	Franciscan Medical Group / Joanne Bachman, DO Bates # 21-23	X		
89	08/07/17	Medical Record Franciscan Medical Group / Neurosurgery Initial Consult / Hoan-Vu Phan Tran, MD Bates # 23-30		X (duplicate of Plaintiff exhibit)	
90	08/07/17	Medical Record Harborview Medical Center / Joel Fahling, MD / ER Bates # PID Gamble 000633-637		X (duplicate of Plaintiff exhibit)	
91	08/07/17	Medical Record Harborview		X	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
		Medical Center ER / Michael Meyer, MD, / Bates # PID Gamble PID Gamble 000655-656		(duplicate of Plaintiff exhibit)	
92	08/08/17	Medical record / UW Medical Center / Harborview Medical Center Maxillofacial CT Scan Report / Nathan Cross, MD Bates # 267-268		X (duplicate of Plaintiff exhibit)	
93	08/08/17	Harborview Medical Center MC / Shawn Moore, PA-C Bates # PID Gamble 000619-621		X (duplicate of Plaintiff exhibit)	
94	08/08/17	Medical Record Harborview Medical Center / Farah Daneshvar, DO & Tracy Tylee, MD Bates # PID Gamble 000622-627		X (duplicate of Plaintiff exhibit)	
95	08/08/17	Medical Record Harborview Medical Center / Christopher Sidu, RN Bates # PID Gamble 000630		X (duplicate of Plaintiff exhibit)	
96	08/09/17	Medical Record Head MRI Report UW Medical Center / Harborview Medical Center Recs / Nathan		X (duplicate of Plaintiff exhibit)	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
		Cross, MD Bates # 265-266			
97	08/09/17	Medical Record Harborview Medical Center / Farah Daneshvar, DO Bates # PID Gamble 000606-608		X (duplicate of Plaintiff exhibit)	
98	08/10/17	Harborview Medical Center / Kristen Moe, MD / Operative Report Bates # 205-207		X (duplicate of Plaintiff exhibit)	
99	08/10/17	Harborview Medical Center / Anoop Patel, MD / Operative Report Bates # 208-209		X (duplicate of Plaintiff exhibit)	
100	8/10/17	Neuropathological Diagnosis UW Medical Center / Harborview Medical Center Rajnish Bharadwaj, Ph.D.; Jing Zhang, M.D., Ph.D. Bates # 248		X (duplicate of Plaintiff exhibit)	
101	08/10/17	UW Medical Center / Harborview Medical Center Post-operative Brain MRI / David Haynor, MD Bates # 261-262		X (duplicate of Plaintiff exhibit)	
102	08/10/17	Medical Record UW Medical Center / Harborview Medical Center / CT of Head Jeffrey Jarvik, MD Bates # 263-264		X (duplicate of Plaintiff exhibit)	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
103	03/01/18	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley Bates # GAMBLE000348		X (duplicate of Plaintiff Exhibit)	
104	03/15/18	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley Bates # GAMBLE000338	X		
105	04/09/18	Email from Lockner, Crowley & Kay to Ryan Pauley (produced in response to subpoena duces tecum to Lockner, Crowley & Kay)	X		
106	09/02/18	Steve Klein, M.D. records review report re: Veronica Gamble (Cover sheet from Machaon dated 9/7/2018) Bates # GAMBLE001793-1805		X (duplicate of Plaintiff Exhibit)	
107	09/20/18	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley Bates # GAMBLE000317		X (duplicate of Plaintiff Exhibit)	
108	10/12/18	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley Bates # GAMBLE000303	X		
109	12/06/18	Hoan Tran, M.D. Declaration and Exhibit Bates #		X (duplicate of Plaintiff Exhibit)	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
		GAMBLE001348-51			
110	12/11/18	Correspondence from Ryan Pauley to State Farm (forwarding 12/6/2018 Hoan Tran, M.D. Declaration) Bates # GAMBLE001347		X (duplicate of Plaintiff Exhibit)	
111	12/28/18	Steven Klein, M.D. Addendum report re: Veronica Gamble in response to 12/6/2018 Hoan Tran, M.D. Declaration Bates # GAMBLE001428-32		X (duplicate of Plaintiff Exhibit)	
112	01/16/19	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley (forwarding Steven Klein, M.D. addendum report) Bates # GAMBLE000292		X (duplicate of Plaintiff Exhibit)	
113	01/25/19	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley Bates # GAMBLE000291		X (cumulative)	
114	02/07/19	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley Bates # GAMBLE000290		X (cumulative)	

Exhibit No.	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated; Admissibility Disputed	(c) Authenticity & Admissibility Disputed
115	02/27/19	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley Bates # GAMBLE000289	X		
116	03/01/19	Correspondence State Farm Claim Rep. Cody Potthast to Ryan Pauley Bates # GAMBLE000288		X (cumulative)	
117	Undated	Illustrative Exhibit of anatomy of mid-cranial area including sella turcica, pituitary stalk, optic chiasm and other anatomic features relevant to case			X
118	Undated	MRI Image / Dr. Klein #1			X
119	Undated	MRI Image / Dr. Klein #2			X
120	Undated	MRI Image / Dr. Klein #3			X
121	Undated	MRI Image / Dr. Klein #4			X
122	Undated	Dr. Stimac PPT Presentation			X
123-133		RESERVED			X

Defendant reserves the right to move to admit any exhibit or portion of an exhibit listed by plaintiff. Defendant reserves the right to introduce and move to admit additional exhibits at trial to rebut plaintiff's case-in-chief or rebuttal witnesses.

VIII. DEPOSITION DESIGNATIONS

Dr. Anoop Patel, perpetuation testimony taken September 16, 2021, will be played via recorded video in its entirety subject to rulings on the parties' objections. Plaintiff waives and will remove from the video transcript to be played at the jury the following objections:

- 63:3–18
 - 65:20–23
 - 69:22–24
 - 71:4
 - 76:9–11
 - 77:11
 - 77:13–15
 - 78:7–8
 - 79:5–19
 - 82:4
 - 82:8–12
 - 82:20–22
 - 83:4
 - 84:24
 - 85:1–2
 - 93:7

State Farm also withdraws its objections to the admissibility of Exhibits 6A, 6B (page 22); Exhibit 6C (page 35); and 6E (page 46).

The withdrawn objections noted above have been redacted from the transcript of Dr. Patel, attached hereto.

The disputed objections necessitating rulings from the Court are highlighted.

Dr. Brent Wisse, perpetuation testimony taken October 7, 2021, in its entirety subject to rulings on the parties' objections. The parties will designate the testimony with any revisions as to objections as soon as the transcript is received from the Court reporter and file a supplemental deposition designation.

IX. COVID-19 ISSUES

This trial will be conducted entirely via remote videoconference per the Court's Order for Remote Jury Trial, Dkt. 99.

ORDER OF THE COURT

This case is scheduled for a trial before a jury on October 25, 2021, at 9:00 a.m. to be conducted via ZoomGov. This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of the action unless modified by a subsequent order. This order shall not be further amended except by order of the court pursuant to agreement of the parties or to prevent manifest injustice.

SO ORDERED.

This 20th day of October, 2021.

Wesley Pekerman

Marsha J. Pechman
United States Senior District Judge

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RESPECTFULLY SUBMITTED October 8, 2021.

**RUIZ & SMART
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